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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,209	07/12/2000	BRAD NEILSON	11941	8945

6123 7590 01/20/2004

JAMES EARL LOWE, JR.
15417 W NATIONAL AVE # 300
NEW BERLIN, WI 53151

EXAMINER

MARSH, STEVEN M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 01/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

09/600,209

Applicant(s)

NEILSON, BRAD

Examiner

Steven M Marsh

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-- The MAILING DATE of this communication appears on the cover sheet with the c rrespond nce address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-9,11 and 13-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 14-18 is/are rejected.
- 7) ☒ Claim(s) 4-9,11 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This is the second office action for U.S. Application 09/600,209 for a Material Support Stand filed by Brad Neilson on July 12, 2000. Claims 2, 3, 10, and 12 have been canceled.

Claim Objections

Claim 4 is objected to because of the following informalities: The word "utilise" should be deleted and replaced with - - utilized - -. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear whether Applicant is attempting to claim the items held in use. For examination purposes it is assumed that Applicant is claiming a stand for holding interchangeable items.

Allowable Subject Matter

The indicated allowability of claim 1 is withdrawn in view of the newly discovered reference(s) to U.S. Patent 4,253,648 to Meeks in view of U.S. Patent 3,561,748 to Scheffers. Rejections based on the newly cited reference(s) follow.

Claims 4-9, 11, and 13 are allowed. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose an upstanding tool rack adapted to be mounted to a machine surface by incorporating a hook formation adapted to pass through an aperture of the machine and hook beneath its surface. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 14-18 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,253,648 to Meeks in view of U.S. Patent 3,561,748 to Schefers. Meeks discloses a stand with a base (14) adapted to stand on a surface of a machine. There is an upstanding rack (10,12, etc.) mounted to the base and it is configured to hold or support items. The rack has a clamp (122 and 130) for holding items and there is a securing means for securing the base to the surface (holes in the base). There is at least a pair of arms aligned generally side by side and projecting laterally therefrom, with each defining a space therebetween. The stand could be coupled back to back

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with another stand and there is a peg (50) projecting upwardly at an inclined angle to the horizontal.

Meeks does not disclose a magnetic clamp for holding ferrous metal items. Schefers teaches the use of magnetic clamps for holding metal items. It would have been obvious to one of ordinary skill in the art at the time of the present invention to have utilized a magnetic clamp as the clamp on the stand taught by Meeks, as taught by Schefers, for the purpose of providing a secure means for holding metal items.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Marsh whose telephone number is (703) 305-0098. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30 PM. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.



Steven M. Marsh

January 9, 2004



ANITA KING
PRIMARY EXAMINER